

§ 528.8

12 CFR Ch. V (1–1–05 Edition)

Federal Contract Compliance Programs (OFCCP) regulations at 41 CFR part 60;

(4) The Veterans Employment and Readjustment Act of 1972, 38 U.S.C. 2011–2012, and the Vietnam Era Veterans Readjustment Adjustment Assistance Act of 1974, 38 U.S.C. 2021–2026;

(5) The Rehabilitation Act of 1973, 29 U.S.C. 701 *et al.*; and

(6) The Immigration and Nationality Act, 8 U.S.C. 1324b, and INS regulations at 8 CFR part 274a.

§ 528.8 Complaints.

Complaints regarding discrimination in lending by a savings association shall be referred to the Assistant Secretary for Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Washington, DC 20410 for processing under the Fair Housing Act, and to the Director, Consumer Affairs, Office of Thrift Supervision, Washington, DC 20552 for processing under Office regulations. Complaints regarding discrimination in employment by a savings association should be referred to the Equal Employment Opportunity Commission, Washington, DC 20506 and a copy, for information only, sent to the Director, Consumer Affairs, Office of Thrift Supervision, Washington, DC 20552.

§ 528.9 Guidelines relating to non-discrimination in lending.

(a) *General.* Fair housing and equal opportunity in home financing is a policy of the United States established by Federal statutes and Presidential orders and proclamations. In furtherance of the Federal civil rights laws and the economical home financing purposes of the statutes administered by the Office, the Office has adopted, in part 528 of this chapter, nondiscrimination regulations that, among other things, prohibit arbitrary refusals to consider loan applications on the basis of the age or location of a dwelling, and prohibit discrimination based on race, color, religion, sex, handicap, familial status (having one or more children under the age of 18), marital status, age (provided the person has the capacity to contract), or national origin in fixing the amount, interest rate, duration, application procedures, collection

or enforcement procedures, or other terms or conditions of housing related loans. Such discrimination is also prohibited in the purchase of loans and securities. This section provides supplementary guidelines to aid savings associations in developing and implementing nondiscriminatory lending policies. Each savings association should reexamine its underwriting standards at least annually in order to ensure equal opportunity.

(b) *Loan underwriting standards.* The basic purpose of the Office's nondiscrimination regulations is to require that every applicant be given an equal opportunity to obtain a loan. Each loan applicant's creditworthiness should be evaluated on an individual basis without reference to presumed characteristics of a group. The use of lending standards which have no economic basis and which are discriminatory in effect is a violation of law even in the absence of an actual intent to discriminate. However, a standard which has a discriminatory effect is not necessarily improper if its use achieves a genuine business need which cannot be achieved by means which are not discriminatory in effect or less discriminatory in effect.

(c) *Discriminatory practices*—(1) *Discrimination on the basis of sex or marital status.* The Civil Rights Act of 1968 and the National Housing Act prohibit discrimination in lending on the basis of sex. The Equal Credit Opportunity Act, in addition to this prohibition, forbids discrimination on the basis of marital status. Refusing to lend to, requiring higher standards of creditworthiness of, or imposing different requirements on, members of one sex or individuals of one marital status, is discrimination based on sex or marital status. Loan underwriting decisions must be based on an applicant's credit history and present and reasonably foreseeable economic prospects, rather than on the basis of assumptions regarding comparative differences in creditworthiness between married and unmarried individuals, or between men and women.

(2) *Discrimination on the basis of language.* Requiring fluency in the English